

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL NO. 1:10-CR-244
:
V. : (Chief Judge Kane)
:
:
EMMANUEL EKHATOR AND :
YVETTE MATHURIN :

**FILED
HARRISBURG**

APR 20 2011

MARY E. D'ANDREA, CLERK
~~Per~~ **DEPUTY CLERK**

SECOND SUPERSEDING INDICTMENT

COUNT 1

(Criminal Conspiracy to Commit
Mail Fraud and Wire Fraud)

THE GRAND JURY CHARGES THAT:

A. Background

Beginning at a time unknown to the Grand Jury and continuing through the present the defendants, EMMANUEL EKHATOR and YVETTE MATHURIN, conspired with each other and with co-conspirators known and unknown to the Grand Jury, to engage in a "collection" scam targeting law firms in the United States and Canada and involving the use of counterfeit checks.

(1) The defendant EMMANUEL EKHATOR is a citizen of Nigeria who previously sought refugee status in Canada and who is currently in custody in Nigeria.

(2) The defendant YVETTE MATHURIN resides in Ontario, Canada.

(3) As used in this Second Superseding Indictment, the term "collection" scam involves the following:

(a) A co-conspirator contacts a law firm, usually via e-mail, and claims to be a foreign citizen or a representative of a foreign company.

(b) The co-conspirator represents that he is attempting to collect funds from a North American individual or entity owing monies from a transaction such as a real estate transaction, a divorce settlement, or a tort settlement.

(c) The co-conspirator represents that he is seeking legal representation from the victim law firm to collect the monies.

(d) After agreeing to provide legal representation, the victim law firm is contacted by another co-conspirator posing as a representative of the entity purportedly owing the monies. This individual agrees to make payment on the monies owed.

(e) A co-conspirator purporting to be a representative of the entity owing the monies then mails a check that appears to be legitimate to the victim law firm via Canada Post, U.S. Mail, or a private courier such as FedEx or UPS.

(f) The information on the check was stolen from legitimate companies, with the amount, payee name, and phone number altered.

(g) If a victim law firm contacts the fraudulent phone number printed on the check, a co-conspirator answers the call and fraudulently verifies the amount of the check and its validity.

(h) The victim law firm deposits the check into a trust account and waits until it appears the check has cleared.

(i) Following instructions from the initial co-conspirator, the victim law firm then wires funds to a bank account, usually located in Asia.

(j) Typically, the fraud is detected when the check is returned because it is counterfeit.

(4) As used in this Second Superseding Indictment, the term "catcher" refers to an individual who contacts the victim lawyer or law firm and initiates the purported attorney/client relationship.

(5) As used in this Second Superseding Indictment, the term "runner" refers to an individual who coordinates bank accounts and obtains checks from the individuals who create the counterfeit checks.

B. The Conspiracy and Its Objects

(6) Beginning at a time unknown to the Grand Jury and continuing through approximately August 26, 2010, within the Middle District of Pennsylvania; the Commonwealth of Massachusetts; the States of Alabama and Georgia; the provinces of Ontario and Quebec, Canada; the countries of Nigeria, the United Kingdom, South Korea, Japan, China, Singapore, and other districts and countries the defendants, **EMMANUEL EKHATOR** and **YVETTE MATHURIN**, knowingly and willfully conspired and agreed with each other and with others known and unknown to the Grand Jury, to commit various offenses against the United States; that is:

(a) to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises through the use of the United States mail and private couriers, in violation of Title 18, United States Code, Section 1341, mail fraud; and

(b) to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted by means of wire, radio and television communications in interstate and foreign commerce, writings, signals, pictures and sounds in violation of Title 18, United States Code, Section 1343, wire fraud.

C. Manner and Means of the Conspiracy and Scheme and Artifice to Defraud

(7) It was part of this conspiracy and scheme and artifice to defraud that the defendants, **EMMANUEL EKHATOR** and **YVETTE MATHURIN**, and others known and unknown to the Grand Jury agreed to obtain money and property; to wit, more than \$32 million in actual loss from over 80 victim lawyers and law firms and more than \$100 million in attempted loss from approximately 300 additional victim lawyers and law firms, through a "collection" scheme as described herein.

(8) The role of **EMMANUEL EKHATOR** in this scheme included, but was not limited to, transmitting information, usually via e-

mail, between "catchers" and "runners"; providing information to make counterfeit checks and sending checks to victims; receiving notification that a counterfeit check had been sent to a victim and relaying the same to a "catcher"; and receiving information concerning the bank where funds from the counterfeit check were to be deposited and relaying this information to victims.

(9) The role of **YVETTE MATHURIN** in this scheme included, but was not limited to, purporting to be a bank employee and falsely validating the amount of the check and its authenticity when a victim law firm called the fraudulent telephone number listed on the counterfeit check.

D. Overt Acts

The preceding paragraphs of this Second Superseding Indictment are incorporated into this section of the Second Superseding Indictment as if fully set out herein.

VICTIM GAN TRANSACTIONS

(10) In August, 2008, a co-conspirator contacted Attorney Richard Gan, Carlisle, Pennsylvania, via e-mail, and solicited legal representation, claiming that he worked for a Taiwanese company that was purportedly owed money by A&H Enterprises.

(11) On August 4, 2008, a co-conspirator sent an e-mail to **EMMANUEL EKHATOR** titled "AZA FROM NICK." AZA, as used in this Second Superseding Indictment, is a slang term for an account used to receive fraud funds. The e-mail included account

information for account 650-006463-244 at the Korea Exchange Bank.

(12) On August 7, 2008, a co-conspirator mailed via UPS a counterfeit Citibank check for \$297,900 purportedly drawn on an A&H Enterprises account, from Canada to Gan, which check Gan deposited on August 11, 2008.

(13) On August 11, 2008 **EMMANUEL EKHATOR** sent an e-mail to suspected catcher trimarxinvestment@yahoo.ca with account information for account 650-006463-244 at the Korea Exchange Bank.

(14) On August 13, 2008, upon instructions from a co-conspirator, Gan wired \$244,278 to account 650-006463-244 at the Korea Exchange Bank.

(15) On August 15, 2008, a co-conspirator e-mailed **EMMANUEL EKHATOR** telling him to discontinue use of account 650-006463-244 at the Korea Exchange Bank.

VICTIM WALLACE, JORDAN, RATCLIFF AND BRANDT LLC TRANSACTIONS

(16) On January 1, 2009, a co-conspirator e-mailed **EMMANUEL EKHATOR** with account information for six banks in Asia including account 650-006098-977 at the Korea Exchange Bank.

(17) On February 16, 2009, Michael Jackson of the law firm of Wallace, Jordan, Ratcliff and Brandt LLC, 800 Shades Creek Parkway, Suite 400, Birmingham, Alabama, received an e-mail from a co-conspirator claiming to an officer of Nissen Company Limited and requesting representation in debt collection from clients in

North America. The firm agreed to represent the purported client.

(18) The victim law firm then received an e-mail from a co-conspirator claiming to be a representative of a firm that owed Nissen Company \$970,000. The co-conspirator stated that an official check for \$236,710 for the first installment on the debt had been sent.

(19) On February 24, 2009, **EMMANUEL EKHATOR** received an e-mail from a co-conspirator identifying the victim law firm as a potential target, which e-mail specified the \$970,000 figure.

(20) On February 25, 2009, the victim law firm received a counterfeit Citibank check for \$236,710 and instructions to wire \$180,937.70 to Korea Exchange Bank account 650-006098-977.

(21) On February 26, 2009, **EMMANUEL EKHATOR** sent an e-mail to **YVETTE MATHURIN** listing the amount of the check sent to the victim law firm and the last four digits of the check number.

(22) An employee of the victim law firm called the phone number printed on the check and spoke with a woman believed to be **YVETTE MATHURIN** who stated the check was valid.

(23) The victim law firm then deposited the check into its trust account and wired \$180,937.70 to Korea Exchange Bank account 650 006098 977.

(24) On February 28, 2009, **EMMANUEL EKHATOR** e-mailed a co-conspirator with wire transfer information from the victim law firm.

(25) On May 5, 2009, a co-conspirator e-mailed **EMMANUEL EKHATOR** and other co-conspirators telling them to discontinue use of account 650 006098 977 at the Korea Exchange Bank.

VICTIM MCBETH TRANSACTIONS

(26) On November 23, 2009, **EMMANUEL EKHATOR** sent an e-mail to a counterfeiter with information to be placed on counterfeit checks.

(27) On December 6, 2009, **EMMANUEL EKHATOR** received an e-mail from a suspected "catcher" providing information for account 050312929 A B N AMRO Bank, Singapore.

(28) In December, 2009, a co-conspirator e-mailed Attorney Anthony T. McBeth, Harrisburg, Pennsylvania, and stated that he needed legal counsel to obtain \$350,000 from JOM Freight, York, Pennsylvania.

(29) On or about January 12, 2010, a co-conspirator caused a counterfeit Citibank check, purportedly drawn on a JOM Freight account, to be mailed to McBeth, via DHL, from Toronto, Canada, to Harrisburg. The check contained the phone and account numbers contained in the e-mail from **EMANUEL EKHATOR** referenced above.

(30) Thereafter, upon instructions from a co-conspirator, McBeth wired \$270,000 to account 05012928 at A B N AMRO Bank, Singapore. This is the account that was the subject of the December 6, 2009, e-mail to **EMMANUEL EKHATOR** referenced above.

(31) On March 20, 2010, **EMMANUEL EKHATOR** sent an e-mail to a "catcher" providing information for the same account.

VICTIM GOLDENZIEL TRANSACTIONS

(32) On January 27, 2010, a co-conspirator e-mailed Attorney Gene Goldenziel, Scranton, Pennsylvania, and represented that he needed legal counsel to obtain \$400,000 from JOM Freight, York, Pennsylvania.

(33) In January, 2010, a co-conspirator caused a counterfeit check, purportedly drawn on a JOM Fright account, and a letter to be mailed to Goldenziel, which documents were received on February 9, 2010.

(34) On February 5, 2010, **EMMANUEL EKHATOR** sent an e-mail to an account controlled by a suspected counterfeiter containing the wording of the letter that was mailed to Goldenziel with the counterfeit check.

(35) On that same date, **EMMANUEL EKHATOR** sent an e-mail to a suspected counterfeiter containing the information, including the payee name, account, and routing number, that was contained on the counterfeit check received by Goldenziel.

(36) On February 8, 2010, a suspected counterfeiter sent an e-mail to **EMMANUEL EKHATOR** reporting that he had sent the check and providing the U.S. Mail Tracking Number.

VICTIM ALPERN, MYERS, AND STUART TRANSACTIONS

(37) On August 13, 2009, a co-conspirator sent an e-mail to a co-conspirator entitled "Fw. aza." containing account information for account 3631018 at Mitsubishi Tokyo UFJ Bank.

(38) On August 20, 2009, the co-conspirator who received the e-mail sent an e-mail entitled "ADDITIONAL ONE" to **EMMANUEL EKHATOR** containing this account information.

(39) On September 15, 2009, victim law firm Alpern, Myers, Stuart, LLC sent \$403,892.67 to account 3631018 at Mitsubishi Tokyo UFJ Bank.

(40) On September 15, 2009, a co-conspirator sent an e-mail to another co-conspirator containing a copy of the wire slip documenting this transaction.

TRANSACTIONS INVOLVING CEE INVESTMENTS, KOREA, ACCOUNTS

(41) On July 24, 2009, a co-conspirator sent an e-mail entitled "MASTER KOREA AZA IS BACK PLEASE PROCEED" and providing information for CEE INVESTMENT KOREA ACCOUNT 00446809100428 at KOOKMIN BANK to **EMMANUEL EKHATOR**.

(42) On July 24, 2009, victim law firm Ned Cohn wired \$380,550 to CEE INVESTMENT KOREA ACCOUNT 00446809100428 at KOOKMIN BANK after being victimized in the scam.

(43) On October 27, 2009, a co-conspirator sent an e-mail to another co-conspirator with the header "aza from Joshua" and containing the information for CEE INVESTMENT KOREA ACCOUNT 00446809100428 at KOOKMIN BANK.

(44) On January 1, 2010, a co-conspirator sent an e-mail to iceman9742@yahoo.com entitled "The aza" and containing information for CEE INVESTMENT KOREA ACCOUNT 180005092472. This is an account that Korean authorities have identified as being in the name of another co-conspirator.

(45) On January 1, 2010, a coconspirator sent an e-mail to a coconspirator containing the information for CEE INVESTMENT KOREA ACCOUNT 180005092472.

(46) On March 1, 2010, a coconspirator sent an e-mail to a coconspirator entitled "aza from Joshua" and containing the information for CEE INVESTMENT KOREA ACCOUNT 180005092472 at Shinhan Bank, Korea.

(47) On May 19, 2010, a coconspirator sent an e-mail to iceman9742@yahoo.com containing information for CEE INVESTMENT KOREA ACCOUNT 180005092472.

(48) On June 8, 2010, a coconspirator sent an e-mail to an unknown co-conspirator with the header "aza that was sent to iceman" containing the information for CEE INVESTMENT KOREA ACCOUNT 180005092472 at Shinhan Bank, Korea. Iceman is believed to be an unknown co-conspirator using e-mail address iceman9742@yahoo.com.

(49) On August 30, 2010 victim Richard Schmizzi of Greensburg, Pennsylvania, wired \$241,000.00 to CEE INVESTMENT KOREA ACCOUNT 180005092472 at Shinhan Bank, Korea.

All in violation of Title 18, United States Code, Section
371.

COUNTS 2-6
(Mail Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

(1) The allegations contained within Count 1 of this Second Superseding Indictment are incorporated in Counts 2 through 6 as if fully set forth herein.

(2) In furtherance of the scheme and artifice to defraud described in Count 1 of this Superseding Indictment, on or about the dates set forth below, in the Middle District of Pennsylvania and elsewhere, the defendants, **EMMANUEL EKHATOR and YVETTE MATHURIN**, aided and abetted by each other and by others known and unknown to the Grand Jury, did knowingly cause any matter or thing to be sent, delivered and moved by the United States Postal Service, private and interstate carriers, to and from the addresses set forth below, according to the direction thereon:

COUNT	DATE	MAILING	FROM	TO	CONTENTS
2	08/07/08	UPS Package Tracking #1Z23RW836634574376	Brampton, Ontario, Canada	Gan Law Group Carlisle, PA	\$297,900.00 counterfeit check
3	02/25/09	FedEx Package Unknown Tracking	Unknown	Wallace, Jordan, Ratcliff and Brandt Birmingham, AL	\$236,710.00 counterfeit check
4	03/02/09	FedEx Package Tracking #86689676767780	Unknown	Wallace, Jordan, Ratcliff and Brandt Birmingham, AL	\$289,750.00 counterfeit check

5	01/12/10	DHL Package Tracking #7397109764	Toronto, Canada	Anthony McBeth, Harrisburg, PA	\$350,000.00 counterfeit check
6	02/08/10	USPS Express Tracking #EH646090998US	Atlanta, GA	Gene Goldenziel, Scranton, PA	\$400,000.00 counterfeit check

All in violation of Title 18, United States Code, Section 1341
and Section 2.

COUNTS 7-24
(Wire Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

(1) The allegations contained within Count 1 of this Second Superseding Indictment are incorporated in Counts 7-24 as if fully set forth herein.

(2) In furtherance of the scheme and artifice to defraud described in Count 1 of this Second Superseding Indictment, on or about the dates set forth below, in the Middle District of Pennsylvania; the Commonwealth of Massachusetts; the States of Alabama and Georgia; the provinces of Ontario and Quebec, Canada; the countries of Nigeria, the United Kingdom, South Korea, Japan, China, Singapore, and other districts and countries the defendants, in the Middle District of Pennsylvania and elsewhere, the defendants, **EMMANUEL EKHATOR** and **YVETTE MATHURIN**, aided and abetted by each other and by others known and unknown to the Grand Jury, did knowingly transmit, cause to be transmitted and attempt to transmit, in interstate and foreign commerce, by means of wire communication, certain signs, signals and sounds; that is, telephone communications, facsimile communications, and e-mail from and between the Middle District of Pennsylvania and elsewhere and the Northern District of Alabama and elsewhere as set forth below:

COUNT	DATE	FROM	TO	CONTENTS
7	08/08/08	wang@ mail- jyetai. com	ganlawl@ embarqrnail. com Richard Gan, Carlisle, PA	Account information wire transfer
8	08/13/08	M&T Bank Carlisle, PA	Korea Exchange Bank South Korea	\$244,278.00 wire transfer
9	02/16/09	Hirakutoshi o44@ yahoo.co. jp	mjackson@ wallace jordan.com	solicitation
10	Between 02/25/08 and 02/27/08	Michael Jackson, Birmingham, AL	1-800-399- 9714	check verification
11	02/27/09	First Commercial Bank, Birmingham, AL	Korea Exchange Bank South Korea	\$180,937.70 wire
12	01/05/10	mcmchen9@gma il.com	atmlawl@ verizon.net Anthony McBeth, Harrisburg, PA	solicitation
13	01/20/10	Anthony McBeth, Harrisburg, PA	1-888-211- 9789	check verification
14	01/20/10	M&T Bank, Harrisburg, PA	ABN AMRO Bank Singapore	\$275,000.00 wire
15	01/27/10	choi.minyon g@yahoo.com	ngplaw@ yahoo. com Gene Goldenzziel	solicitation

			Scranton, PA	
16	02/10/10	Gene Goldenziel, Scranton, PA	1-888-211- 9789	check verification
17	08/04/2008	Maxwell Nosa Omorere	Emmanuel Ekhatore	"Aza from Nick" E-mail with Account Information for Account 650-006463- 244 at Korea Exchange Bank (Gan)
18	01/06/2009	Maxwell Nosa Omorere	Emmanuel Ekhatore	E-mail with Account Information for Account 650-006098-977 at Korea Exchange Bank (Wallace)
19	07/24/2009	Bank of America Somerville, NJ	Kookmin Bank Korea	\$380,550.00 Wire (Cohn)
20	08/13/2009	Kingsle Osagie	Maxwell Nosa Omorere	E-mail with Account Information for Account 3631018 at Mitsubishi Tokyo Ufj Bank (Alpern)
21	09/15/2009	Maxwell Nosa Omorere	Kingsle Osagie	E-mail with Wire Slip from Alpern, Myers & Stuart LLC.
22	10/27/2009	Ezeh Matthew Okechukwu	Maxwell Nosa Omorere	E-mail with Account Information for Account 18000509272 at Korea Exchange Bank (Schmizzi)
23	01/10/2010	Kingsle Osagie	Maxwell Nosa Omorere	E-mail with Account Information for Account 18000509272 at Korea Exchange Bank (Schmizzi)
24	08/30/2010	Citizens Bank Greensburg, PA	Korea Exchange Bank Korea	Wire for \$241,000.00

All in violation of Title 18, United States Code, Section 1343
and Section 2.

COUNT 25

(Criminal Conspiracy to Commit Money Laundering)

THE GRAND JURY FURTHER CHARGES THAT:

(1) The allegations contained within Counts 1-24 of this Second Superseding Indictment are incorporated in Count 25 as if fully set forth herein.

Beginning at a time unknown to the Grand Jury and continuing through approximately August 26, 2010, within the Middle District of Pennsylvania; the Commonwealth of Massachusetts; the States of Alabama and Georgia; the provinces of Ontario and Quebec, Canada; the countries of Nigeria, the United Kingdom, South Korea, Japan, China, Singapore, and other districts and countries the defendants, **EMMANUEL EKHATOR** and **YVETTE MATHURIN**, and others known and unknown to the Grand Jury, knowing that the property involved in a financial transaction represented the proceeds of mail fraud and wire fraud did intentionally and knowingly unlawfully combine, conspire, and confederate and agree with each other and with others known and unknown to the Grand Jury, to conduct or attempt to conduct a financial transaction involving the proceeds of the above described unlawful activity knowing that the financial transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the proceeds of the unlawful activity, violations of Title 18, United States Code, Section 1956 (B)(i).

All in violation of Title 18, United States Code, Section 1956 (h).

COUNT 26
(Forfeiture)

THE GRAND JURY FURTHER CHARGES THAT:

In committing the felony offenses charged in Counts 1 through 25 of the Second Superseding Indictment, which counts are re-alleged and incorporated by reference, the defendants, **EMMANUEL EKHATOR**, derived the below described property which constituted or was derived from proceeds that the defendants **EMMANUEL EKHATOR** and **YVETTE MATHURIN**, derived directly or indirectly as the result of the commission of such offenses, and the property listed below constitutes and is derived from property involved in the commission of such offenses, and constitutes substitute assets:

- (a) A money judgment in the amount of \$31,481,674.
- (b) All funds on deposit in Account No. 0179001000131610 in the name NEU-VISION MULTI-PURPOSE INTEGRATED LTD at the INTERCONTINENTAL BANK, NIGERIA;
- (c) All funds on deposit in Account No. 0179001000131610 in the name NEU-VISION MULTI-PURPOSE INTEGRATED LTD at the INTERCONTINENTAL BANK, NIGERIA;
- (d) All funds on deposit in Account No. 0140472351 in the name NEU-VISION MULTI-PURPOSE INTEGRATED LTD at the PHB BANK, NIGERIA;
- (e) All funds on deposit in Account No. 0140472351 in the name NEU-VISION MULTI-PURPOSE INTEGRATED LTD at the PHB BANK, NIGERIA;
- (f) All funds on deposit in Account No. 611 370 4063 in the name NEU-VISION MULTIPURPOSE INTEGRATED at the ZENITH BANK, NIGERIA;
- (g) All funds on deposit in Account No. 177 000 5210 in the name NEU-VISION MULTIPURPOSE INTEGRATED at the SKYE BANK, NIGERIA;

- (h) All funds on deposit in Account No. 11710 20000 84 in the name NEU-VISION MULTIPURPOSE INTEGRATED at the PHB BANK, NIGERIA;
- (i) All funds on deposit in Account No. 1000--175088--250 in the name EMMANUEL & NKECHI EKHATOR at the FIRST CITY MONUMENT BANK (FCMB) NEW BENIN MARKET BRANCH, NIGERIA;
- (j) All funds on deposit in Account No. 4970035805 in the name EMMANUEL EKHATOR at the PHB BANK, NIGERIA;
- (k) All funds on deposit in Account No. 01000131003221 in the name OSADEBAMWEN EMMANUEL EKHATOR at the UNITED BANK FOR AFRICA, NIGERIA;
- (l) All funds on deposit in Account No. 01400008640299 in the name MRS. STELLA I. EKHATOR at the STANDARD TRUST AKPAPAVA ROAD BRANCH, BENIN CITY, NIGERIA;
- (m) All funds on deposit in Account No. 111 205 000 259 9 in the name STELLA I. EKHATOR at the FIRST BANK PLC, BENIN CITY NIGERIA;
- (n) All funds on deposit in Account No. 0811001006868 at the OCEANIC BANK INTERNATIONAL PLC, NIGERIA;
- (o) All funds on deposit in Account No. 138524-210 in the name EMMANUEL O EKHATOR at the HSBC BANK CANADA, 18-675 THE CHASE, MISSISSAUGA, ONTARIO L5M 5Y7 CANADA;
- (p) All funds on deposit in Account No. 504 8277 in the name NKECHI EKHATOR at the ROYAL BANK OF CANADA, 25 MILVERTON DRIVE, MISSISSAUGA, ONTARIO L5R 3G2 CANADA;
- (q) All funds on deposit in Account No. 082-165491-001 in the name NEU-VISION GLOBAL INC at the HSBC BANK CANADA, 18-675 THE CHASE, MISSISSAUGA, ONTARIO L5M 5Y7 CANADA;
- (r) All funds on deposit in Account No. 082-222673-005 in the name NEU-VISION GLOBAL INC at the HSBC BANK CANADA, 18-675 THE CHASE, MISSISSAUGA, ONTARIO L5M 5Y7 CANADA;
- (s) House and real property located at:
2308 MANOR HOUSE CT, MISSISSAUGA, ONTARIO L5M5Y3 CANADA;
- (t) 2007 AUDI Q7
VIN: WA1AV74L87D004815
ONTARIO REGISTRATION: NK BABE
- (u) 2006 BMW 650i

VIN: WBAEK13426CN78111
ONTARIO REGISTRATION: BLUES 01

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b) (1), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

By virtue of the commission of the offenses charged in Counts 1 through 25 of this Second Superseding Indictment by the defendants, **EMMANUEL EKHATOR** and **YVETTE MATHURIN**, any and all right, title and interest the defendants may have had in the above-described property is vested in the United States and is hereby forfeited to the United States pursuant to Title 18, United States Code, Section 981 (a) (1) (C) and Section 982 and Title 21, United States Code, Section 853.

In the event that any of the property involved in the offenses alleged in Counts 1 through 25 or traceable to such

property, or any other property constituting or derived from proceeds of such offenses, as a result of any act or omission of any of the defendants:

- (a) cannot be located upon exercise of due diligence;
- (b) has been transferred, sold to, or deposited with a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty,

the United States demands the forfeiture of other property of the defendants up to the value of the property listed above, pursuant to Title 21, United States Code, Section 853(p).



Peter J. Smith
PETER J. SMITH *by cdf*
United States Attorney

Dated: 4-20-2011